

U.S. Sentencing Commission Special Post-Booker Coding Project



Information for All Cases

Cases Sentenced Subsequent to *U.S. v. Booker*
(Data Extraction as of February 1, 2006)

Prepared: February 14, 2006



U.S. SENTENCING COMMISSION
SPECIAL POST-BOOKER CODING PROJECT
DATA EXTRACTION DATE: FEBRUARY 1, 2006

CONTENTS

	page
NATIONAL DATA	
Comparison of Sentence Imposed And Position Relative to the Post-Booker Guideline Range	1
Most Frequently Applied Guidelines: Comparison of Sentence Imposed And Position Relative to the Guideline Range	2
Offenders Sentenced for Each Chapter Two Guideline	3
CIRCUIT AND DISTRICT DATA	
Guideline Offenders in Each Circuit and District	5
Guideline Application Trends: National and Circuit	7
SENTENCE LENGTHS – MOST FREQUENTLY APPLIED GUIDELINES	
Distribution of Offenders Receiving Sentencing Options	12
Average and Median Sentence Imposed: Fiscal Years 2000-2001	13
Average and Median Sentence Imposed: Fiscal Years 2002-2003	14
Average and Median Sentence Imposed: Pre-Blakely 2004 and Post-Booker ..	15

DEGREE OF DEPARTURE AND VARIANCE

Departure and Variance Rate by Each Circuit and District	16
Substantial Assistance Departures in Each Primary Offense Category	19
Govt Sponsored Downward Departures in Each Primary Offense Category . .	20
Other Downward Departures in Each Primary Offense Category	21
Otherwise Below Guideline Range in Each Primary Offense Category	22
Upward Departures in Each Primary Offense Category	23
Otherwise Above Guideline Range in Each Primary Offense Category	24

NATIONAL COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *U.S. v. Booker* with Data Available to USSC on February 1, 2006

	N	%
TOTAL¹	63,631	100.0
WITHIN GUIDELINE RANGE	39,383	61.9
DEPARTURE ABOVE GUIDELINE RANGE	167	0.3
Upward Departure from the Guideline Range ²	121	0.2
Upward Departure with <i>Booker</i> /18 U.S.C. § 3553 ³	46	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	841	1.3
Above the Range with <i>Booker</i> /18 U.S.C. § 3553 ⁴	444	0.7
All Remaining Cases Above the Guideline Range ⁵	397	0.6
GOVERNMENT SPONSORED BELOW RANGE	15,289	24.0
§5K1.1 Substantial Assistance Departure	9,245	14.5
§5K3.1 Early Disposition Program Departure	4,332	6.8
Government-Sponsored Departure ⁶	1,712	2.7
DEPARTURE BELOW GUIDELINE RANGE	2,048	3.2
Downward Departure from the Guideline Range ²	1,424	2.2
Downward Departure with <i>Booker</i> /18 U.S.C. § 3553 ³	624	1.0
OTHERWISE BELOW THE GUIDELINE RANGE	5,903	9.3
Below the Range with <i>Booker</i> /18 U.S.C. § 3553 ⁴	3,966	6.2
All Remaining Cases Below the Guideline Range ⁵	1,937	3.1

¹This table reflects the 65,766 cases sentenced subsequent to the *U.S. v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by February 1, 2006. Of this total, there are 2,135 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

²All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

³All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

⁴All cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

⁵Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to *Booker*/18 U.S.C. § 3553. This category includes cases which cite departure reasons that are not affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁶Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-*Booker* Coding Project, (data extraction on February 1, 2006; table prepared on February 14, 2006). Summary numbers may not add up to their component parts due to rounding.

MOST FREQUENTLY APPLIED GUIDELINES: COMPARISON OF SENTENCE IMPOSED AND POSITION RELATIVE TO THE GUIDELINE RANGE

Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on February 1, 2006

	Four Most Frequently Applied Primary Guidelines									
	All Cases		§2D1.1 Drug Trafficking		§2L1.2 Unlawful Entry		§2K2.1 Firearms		§2B1.1 Theft and Fraud	
	N	%	N	%	N	%	N	%	N	%
TOTAL¹	63,631	100.0	21,901	100.0	9,995	100.0	6,256	100.0	6,498	100.0
WITHIN GUIDELINE RANGE	39,383	61.9	11,731	53.6	5,732	57.3	4,388	70.1	4,601	70.8
DEPARTURE ABOVE GUIDELINE	167	0.3	18	0.1	16	0.2	23	0.4	21	0.3
Upward Departure from the Guideline Range ²	121	0.2	15	0.1	10	0.1	18	0.3	13	0.2
Upward Departure with Booker/18 USC §3553 ³	46	0.1	3	0.0	6	0.1	5	0.1	8	0.1
OTHERWISE ABOVE THE RANGE	841	1.3	123	0.6	84	0.8	126	2.0	167	2.6
Above the Range with Booker/18 USC §3553 ⁴	444	0.7	62	0.3	51	0.5	60	1.0	91	1.4
All Remaining Cases Above the Guideline Range ⁵	397	0.6	61	0.3	33	0.3	66	1.1	76	1.2
GOVERNMENT BELOW GUIDELINE	15,289	24.0	7,232	33.0	3,212	32.1	774	12.4	795	12.2
§5K1.1 Substantial Assistance Departure	9,245	14.5	5,716	26.1	65	0.7	589	9.4	686	10.6
§5K3.1 Early Disposition Program Departure	4,332	6.8	932	4.3	2,824	28.3	35	0.6	10	0.2
Government-Sponsored Departure ⁶	1,712	2.7	584	2.7	323	3.2	150	2.4	99	1.5
DEPARTURE BELOW GUIDELINE	2,048	3.2	681	3.1	319	3.2	256	4.1	224	3.4
Downward Departure from the Guideline Range ²	1,424	2.2	466	2.1	249	2.5	165	2.6	152	2.3
Downward Departure with Booker/18 USC §3553 ³	624	1.0	215	1.0	70	0.7	91	1.5	72	1.1
OTHERWISE BELOW THE RANGE	5,903	9.3	2,116	9.7	632	6.3	689	11.0	690	10.6
Below the Range with Booker/18 USC §3553 ⁴	3,966	6.2	1,484	6.8	409	4.1	482	7.7	409	6.3
All Remaining Cases Below the Guideline Range ⁵	1,937	3.0	632	2.9	223	2.2	207	3.3	281	4.3

¹This table reflects the 65,766 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by February 1, 2006. Of this total, there are 2,135 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

²All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*.

³All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

⁴All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

⁵Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁶Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, (data extraction on February 1, 2006; table prepared on February 14, 2006). Cases with multiple guideline calculations are classified by the guideline with the highest offense level. Summary numbers may not add up to their component parts due to rounding.

OFFENDERS SENTENCED FOR EACH CHAPTER TWO GUIDELINE¹

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2A1.1	148	0.2	158	0.2	2D1.7	14	0.0	16	0.0
2A1.2	32	0.1	36	0.1	2D1.8	55	0.1	94	0.1
2A1.3	20	0.0	20	0.0	2D1.9	0	0.0	0	0.0
2A1.4	32	0.1	33	0.0	2D1.10	20	0.0	21	0.0
2A1.5	14	0.0	36	0.1	2D1.11	171	0.3	190	0.3
2A2.1	51	0.1	79	0.1	2D1.12	26	0.0	40	0.1
2A2.2	327	0.5	373	0.6	2D1.13	0	0.0	0	0.0
2A2.3	32	0.1	37	0.1	2D2.1	354	0.6	440	0.7
2A2.4	129	0.2	149	0.2	2D2.2	42	0.1	51	0.1
2A3.1	141	0.2	147	0.2	2D2.3	1	0.0	1	0.0
2A3.2	132	0.2	153	0.2	2D3.1	3	0.0	3	0.0
2A3.3	5	0.0	5	0.0	2D3.2	0	0.0	0	0.0
2A3.4	30	0.0	41	0.1	2D3.3	0	0.0	0	0.0
2A4.1	55	0.1	73	0.1	2D3.4	0	0.0	0	0.0
2A4.2	1	0.0	1	0.0	2D3.5	0	0.0	0	0.0
2A5.1	0	0.0	1	0.0	2E1.1	29	0.0	98	0.1
2A5.2	12	0.0	12	0.0	2E1.2	15	0.0	80	0.1
2A5.3	0	0.0	0	0.0	2E1.3	0	0.0	25	0.0
2A6.1	149	0.2	156	0.2	2E1.4	11	0.0	17	0.0
2A6.2	6	0.0	13	0.0	2E1.5	0	0.0	0	0.0
2B1.1	6,641	10.9	7,237	10.9	2E2.1	27	0.0	34	0.1
2B1.2	0	0.0	0	0.0	2E3.1	101	0.2	120	0.2
2B1.3	5	0.0	5	0.0	2E3.2	0	0.0	0	0.0
2B1.4	9	0.0	9	0.0	2E3.3	0	0.0	0	0.0
2B1.5	14	0.0	15	0.0	2E4.1	23	0.0	30	0.0
2B2.1	65	0.1	77	0.1	2E5.1	11	0.0	15	0.0
2B2.2	0	0.0	0	0.0	2E5.2	0	0.0	0	0.0
2B2.3	2	0.0	2	0.0	2E5.3	3	0.0	9	0.0
2B3.1	1,726	2.8	1,839	2.8	2E5.4	0	0.0	0	0.0
2B3.2	46	0.1	72	0.1	2E5.5	0	0.0	0	0.0
2B3.3	13	0.0	17	0.0	2E5.6	0	0.0	0	0.0
2B4.1	54	0.1	56	0.1	2F1.1	1,139	1.9	1,206	1.8
2B5.1	509	0.8	543	0.8	2F1.2	5	0.0	6	0.0
2B5.2	0	0.0	0	0.0	2G1.1	63	0.1	111	0.2
2B5.3	124	0.2	135	0.2	2G1.2	1	0.0	1	0.0
2B5.4	0	0.0	0	0.0	2G1.3	59	0.1	65	0.1
2B6.1	13	0.0	13	0.0	2G2.1	97	0.2	115	0.2
2C1.1	214	0.4	235	0.4	2G2.2	508	0.8	527	0.8
2C1.2	23	0.0	23	0.0	2G2.3	0	0.0	0	0.0
2C1.3	11	0.0	11	0.0	2G2.4	386	0.6	427	0.6
2C1.4	2	0.0	2	0.0	2G2.5	1	0.0	1	0.0
2C1.5	0	0.0	0	0.0	2G3.1	13	0.0	18	0.0
2C1.6	0	0.0	0	0.0	2G3.2	0	0.0	0	0.0
2C1.7	33	0.1	39	0.1	2H1.1	46	0.1	52	0.1
2C1.8	3	0.0	4	0.0	2H1.2	0	0.0	0	0.0
2D1.1	22,329	36.5	23,400	35.2	2H1.3	0	0.0	0	0.0
2D1.2	324	0.5	337	0.5	2H1.4	0	0.0	0	0.0
2D1.3	0	0.0	0	0.0	2H1.5	0	0.0	0	0.0
2D1.4	0	0.0	0	0.0	2H2.1	8	0.0	8	0.0
2D1.5	22	0.0	27	0.0	2H3.1	9	0.0	12	0.0
2D1.6	32	0.1	159	0.2	2H3.2	3	0.0	3	0.0

(continued)

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2H3.3	10	0.0	14	0.0	2M4.1	0	0.0	0	0.0
2H4.1	7	0.0	7	0.0	2M5.1	8	0.0	10	0.0
2H4.2	0	0.0	0	0.0	2M5.2	27	0.0	29	0.0
2J1.1	0	0.0	20	0.0	2M5.3	5	0.0	8	0.0
2J1.2	118	0.2	158	0.2	2M6.1	13	0.0	13	0.0
2J1.3	65	0.1	88	0.1	2M6.2	1	0.0	1	0.0
2J1.4	14	0.0	26	0.0	2N1.1	2	0.0	2	0.0
2J1.5	2	0.0	2	0.0	2N1.2	2	0.0	2	0.0
2J1.6	48	0.1	61	0.1	2N1.3	0	0.0	0	0.0
2J1.7	130	0.2	137	0.2	2N2.1	31	0.1	55	0.1
2J1.8	0	0.0	0	0.0	2N3.1	1	0.0	3	0.0
2J1.9	0	0.0	0	0.0	2P1.1	208	0.3	231	0.3
2K1.1	4	0.0	5	0.0	2P1.2	78	0.1	100	0.2
2K1.2	0	0.0	0	0.0	2P1.3	14	0.0	14	0.0
2K1.3	43	0.1	46	0.1	2P1.4	0	0.0	0	0.0
2K1.4	57	0.1	78	0.1	2Q1.1	0	0.0	0	0.0
2K1.5	13	0.0	13	0.0	2Q1.2	43	0.1	45	0.1
2K1.6	1	0.0	1	0.0	2Q1.3	39	0.1	39	0.1
2K1.7	0	0.0	0	0.0	2Q1.4	0	0.0	0	0.0
2K2.1	6,314	10.3	6,685	10.1	2Q1.5	0	0.0	0	0.0
2K2.2	0	0.0	0	0.0	2Q1.6	0	0.0	0	0.0
2K2.3	0	0.0	0	0.0	2Q2.1	97	0.2	100	0.2
2K2.4	1	0.0	1	0.0	2Q2.2	0	0.0	0	0.0
2K2.5	11	0.0	13	0.0	2R1.1	18	0.0	20	0.0
2K2.6	2	0.0	4	0.0	2S1.1	930	1.5	1,017	1.5
2K3.1	0	0.0	0	0.0	2S1.2	20	0.0	27	0.0
2L1.1	3,017	4.9	3,098	4.7	2S1.3	257	0.4	286	0.4
2L1.2	10,101	16.5	10,231	15.4	2S1.4	0	0.0	0	0.0
2L1.3	0	0.0	0	0.0	2T1.1	469	0.8	579	0.9
2L2.1	357	0.6	385	0.6	2T1.2	0	0.0	0	0.0
2L2.2	966	1.6	1,021	1.5	2T1.3	1	0.0	1	0.0
2L2.3	0	0.0	0	0.0	2T1.4	109	0.2	121	0.2
2L2.4	0	0.0	0	0.0	2T1.5	0	0.0	0	0.0
2L2.5	0	0.0	0	0.0	2T1.6	11	0.0	12	0.0
2M1.1	1	0.0	1	0.0	2T1.7	0	0.0	0	0.0
2M2.1	0	0.0	0	0.0	2T1.8	0	0.0	0	0.0
2M2.2	0	0.0	0	0.0	2T1.9	23	0.0	36	0.1
2M2.3	0	0.0	0	0.0	2T2.1	0	0.0	1	0.0
2M2.4	0	0.0	0	0.0	2T2.2	0	0.0	0	0.0
2M3.1	0	0.0	0	0.0	2T3.1	31	0.1	36	0.1
2M3.2	0	0.0	0	0.0	2T3.2	0	0.0	0	0.0
2M3.3	1	0.0	1	0.0	2T4.1	0	0.0	0	0.0
2M3.4	0	0.0	0	0.0	2X1.1	123	0.2	1,263	1.9
2M3.5	0	0.0	0	0.0	2X2.1	0	0.0	48	0.1
2M3.6	0	0.0	0	0.0	2X3.1	100	0.2	117	0.2
2M3.7	0	0.0	0	0.0	2X4.1	421	0.7	434	0.7
2M3.8	0	0.0	0	0.0	2X5.1	0	0.0	45	0.1
2M3.9	0	0.0	0	0.0					
					Total number of guidelines applied:				
					66,407				
					Number of cases with at least one guideline applied:				
					61,139				

¹Of the 65,766 cases, 4,627 were excluded due to missing guideline applied. The total for any guideline can exceed that for primary guideline because a case can have several guidelines applied, but only one primary guideline.

GUIDELINE OFFENDERS IN EACH CIRCUIT AND DISTRICT¹
Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

CIRCUIT			CIRCUIT		
District	Number	Percent	District	Number	Percent
TOTAL	65,766	100.0			
D.C. CIRCUIT	481	0.7	FIFTH CIRCUIT	14,448	22.0
District of Columbia	481	0.7	Louisiana		
			Eastern	309	0.5
			Middle	176	0.3
			Western	380	0.6
FIRST CIRCUIT	1,492	2.3	Mississippi		
Maine	236	0.4	Northern	187	0.3
Massachusetts	456	0.7	Southern	335	0.5
New Hampshire	177	0.3	Texas		
Puerto Rico	492	0.7	Eastern	717	1.1
Rhode Island	131	0.2	Northern	930	1.4
			Southern	6,369	9.7
SECOND CIRCUIT	3,849	5.9	Western	5,045	7.7
Connecticut	362	0.6			
New York			SIXTH CIRCUIT	5,027	7.6
Eastern	1,133	1.7	Kentucky		
Northern	374	0.6	Eastern	505	0.8
Southern	1,199	1.8	Western	364	0.6
Western	586	0.9	Michigan		
Vermont	195	0.3	Eastern	692	1.1
			Western	394	0.6
THIRD CIRCUIT	3,098	4.7	Ohio		
Delaware	156	0.2	Northern	986	1.5
New Jersey	921	1.4	Southern	593	0.9
Pennsylvania			Tennessee		
Eastern	917	1.4	Eastern	600	0.9
Middle	580	0.9	Middle	316	0.5
Western	414	0.6	Western	577	0.9
Virgin Islands	110	0.2			
			SEVENTH CIRCUIT	2,883	4.4
FOURTH CIRCUIT	5,970	9.1	Illinois		
Maryland	642	1.0	Central	373	0.6
North Carolina			Northern	1,031	1.6
Eastern	624	0.9	Southern	279	0.4
Middle	427	0.6	Indiana		
Western	554	0.8	Northern	349	0.5
South Carolina	980	1.5	Southern	297	0.5
Virginia			Wisconsin		
Eastern	1,518	2.3	Eastern	372	0.6
Western	625	1.0	Western	182	0.3
West Virginia					
Northern	306	0.5			
Southern	294	0.4			

(continued)

CIRCUIT			CIRCUIT		
District	Number	Percent	District	Number	Percent
EIGHTH CIRCUIT	4,851	7.4	TENTH CIRCUIT	5,311	8.1
Arkansas			Colorado	606	0.9
Eastern	255	0.4	Kansas	609	0.9
Western	195	0.3	New Mexico	2,417	3.7
Iowa			Oklahoma		
Northern	351	0.5	Eastern	92	0.1
Southern	322	0.5	Northern	198	0.3
Minnesota	537	0.8	Western	250	0.4
Missouri			Utah	944	1.4
Eastern	954	1.5	Wyoming	195	0.3
Western	771	1.2			
Nebraska	835	1.3	ELEVENTH CIRCUIT	6,143	9.3
North Dakota	213	0.3	Alabama		
South Dakota	418	0.6	Middle	210	0.3
			Northern	432	0.7
NINTH CIRCUIT	12,213	18.6	Southern	295	0.4
Alaska	196	0.3	Florida		
Arizona	3,886	5.9	Middle	1,510	2.3
California			Northern	315	0.5
Central	1,323	2.0	Southern	1,979	3.0
Eastern	861	1.3	Georgia		
Northern	615	0.9	Middle	414	0.6
Southern	2,159	3.3	Northern	651	1.0
Guam	119	0.2	Southern	337	0.5
Hawaii	444	0.7			
Idaho	215	0.3			
Montana	383	0.6			
Nevada	410	0.6			
Northern Mariana Islands	24	0.0			
Oregon	494	0.8			
Washington					
Eastern	356	0.5			
Western	728	1.1			

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted February 1, 2006; table prepared February 14, 2006). Summary numbers may not add up to their component parts due to rounding.

Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹
(Post-Booker data extracted February 1, 2006)

NATIONAL

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	64.0%	65.0%	69.4%	72.2%	61.9%
Upward Departures	0.6%	0.8%	0.8%	0.8%	0.3% ²
Otherwise Above Range	—	—	—	—	1.3% ³
Substantial Assistance Departures	17.1%	17.4%	15.9%	15.5%	14.5%
Other Gov't Sponsored Departures	—	—	6.3% ⁴	6.4%	9.5% ⁴
Other Downward Departures	18.3% ⁵	16.8% ⁵	7.5%	5.2%	3.2% ²
Otherwise Below Range	—	—	—	—	9.3% ³

DC CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	74.6%	59.9%	64.6%	59.2%	52.3%
Upward Departures	0.4%	0.5%	0.2%	1.0%	0.2% ²
Otherwise Above Range	—	—	—	—	1.9% ³
Substantial Assistance Departures	13.8%	31.1%	26.4%	31.3%	24.4%
Other Gov't Sponsored Departures	—	—	4.4% ⁴	3.9%	8.3% ⁴
Other Downward Departures	11.2% ⁵	8.5% ⁵	4.4%	4.7%	2.8% ²
Otherwise Below Range	—	—	—	—	10.2% ³

FIRST CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	73.3%	75.7%	77.3%	79.6%	65.2%
Upward Departures	0.4%	0.6%	0.7%	0.9%	0.4% ²
Otherwise Above Range	—	—	—	—	2.1% ³
Substantial Assistance Departures	14.6%	14.4%	13.5%	13.8%	12.5%
Other Gov't Sponsored Departures	—	—	0.7% ⁴	0.5%	2.0% ⁴
Other Downward Departures	11.7% ⁵	9.3% ⁵	7.8%	5.2%	4.0% ²
Otherwise Below Range	—	—	—	—	13.8% ³

(continued on next page)

Guideline Application Trends, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹

SECOND CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	57.5%	61.3%	63.2%	63.8%	49.6%
Upward Departures	0.4%	0.6%	0.5%	0.9%	0.1% ²
Otherwise Above Range	—	—	—	—	0.9% ³
Substantial Assistance Departures	21.7%	19.0%	17.5%	19.2%	23.1%
Other Gov't Sponsored Departures	—	—	2.8% ⁴	2.5%	3.1% ⁴
Other Downward Departures	20.4% ⁵	19.1% ⁵	16.0%	13.6%	6.7% ²
Otherwise Below Range	—	—	—	—	16.4% ³

THIRD CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	60.2%	58.9%	62.3%	62.6%	51.9%
Upward Departures	0.5%	0.9%	0.9%	0.6%	0.2% ²
Otherwise Above Range	—	—	—	—	1.2% ³
Substantial Assistance Departures	30.6%	32.3%	28.8%	30.3%	27.5%
Other Gov't Sponsored Departures	—	—	0.6% ⁴	0.8%	1.7% ⁴
Other Downward Departures	8.8% ⁵	7.9% ⁵	7.4%	5.8%	4.1% ²
Otherwise Below Range	—	—	—	—	13.5% ³

FOURTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	73.7%	76.6%	77.0%	79.0%	66.8%
Upward Departures	0.9%	0.7%	0.6%	1.0%	0.3% ²
Otherwise Above Range	—	—	—	—	1.3% ³
Substantial Assistance Departures	20.2%	18.6%	18.3%	16.7%	18.1%
Other Gov't Sponsored Departures	—	—	0.3% ⁴	0.3%	1.3% ⁴
Other Downward Departures	5.2% ⁵	4.2% ⁵	3.8%	3.0%	2.5% ²
Otherwise Below Range	—	—	—	—	9.6% ³

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Guideline Application, National and Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹

FIFTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	69.1%	71.0%	73.7%	80.2%	71.6%
Upward Departures	0.5%	0.9%	0.9%	0.8%	0.2% ²
Otherwise Above Range	—	—	—	—	1.5% ³
Substantial Assistance Departures	12.3%	13.4%	12.5%	10.3%	7.9%
Other Gov't Sponsored Departures	—	—	5.4% ⁴	5.2%	10.1% ⁴
Other Downward Departures	18.1% ⁵	14.7% ⁵	7.5%	3.5%	2.5% ²
Otherwise Below Range	—	—	—	—	6.1% ³

SIXTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	65.1%	66.9%	69.1%	69.7%	57.7%
Upward Departures	0.5%	0.8%	0.4%	0.5%	0.2% ²
Otherwise Above Range	—	—	—	—	1.3% ³
Substantial Assistance Departures	27.2%	26.0%	24.6%	24.3%	25.2%
Other Gov't Sponsored Departures	—	—	0.5% ⁴	0.4%	1.7% ⁴
Other Downward Departures	7.3% ⁵	6.3% ⁵	5.3%	5.1%	3.0% ²
Otherwise Below Range	—	—	—	—	10.9% ³

SEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	71.0%	69.3%	72.5%	75.4%	63.3%
Upward Departures	1.0%	0.8%	1.0%	1.3%	0.3% ²
Otherwise Above Range	—	—	—	—	1.1% ³
Substantial Assistance Departures	21.2%	21.8%	21.2%	19.0%	17.4%
Other Gov't Sponsored Departures	—	—	0.8% ⁴	0.8%	2.6% ⁴
Other Downward Departures	6.9% ⁵	8.1% ⁵	4.5%	3.6%	3.6% ²
Otherwise Below Range	—	—	—	—	11.8% ³

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Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹

EIGHTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	66.8%	69.3%	72.2%	77.0%	64.4%
Upward Departures	0.7%	1.2%	1.1%	0.9%	0.3% ²
Otherwise Above Range	—	—	—	—	1.6% ³
Substantial Assistance Departures	22.0%	18.9%	17.6%	15.3%	14.0%
Other Gov't Sponsored Departures	—	—	2.0% ⁴	2.1%	4.0% ⁴
Other Downward Departures	10.5% ⁵	10.7% ⁵	7.1%	4.7%	3.5% ²
Otherwise Below Range	—	—	—	—	12.1% ³

NINTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	50.1%	48.8%	59.6%	61.8%	48.0%
Upward Departures	0.4%	0.7%	1.1%	0.8%	0.4% ²
Otherwise Above Range	—	—	—	—	1.2% ³
Substantial Assistance Departures	10.7%	11.8%	10.2%	10.6%	10.4%
Other Gov't Sponsored Departures	—	—	19.2% ⁴	20.4%	28.2% ⁴
Other Downward Departures	38.7% ⁵	38.7% ⁵	9.9%	6.5%	3.4% ²
Otherwise Below Range	—	—	—	—	8.4% ³

TENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	65.0%	66.6%	73.1%	73.9%	66.4%
Upward Departures	0.7%	0.6%	0.6%	0.7%	0.1% ²
Otherwise Above Range	—	—	—	—	0.9% ³
Substantial Assistance Departures	11.0%	11.0%	9.4%	10.3%	9.3%
Other Gov't Sponsored Departures	—	—	11.4% ⁴	10.7%	13.7% ⁴
Other Downward Departures	23.3% ⁵	21.9% ⁵	5.5%	4.5%	2.9% ²
Otherwise Below Range	—	—	—	—	6.7% ³

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Guideline Application Trends By Circuit

Fiscal Years 2001, 2002, 2003, Pre-Blakely FY2004, and Post-Booker FY2005-06¹

ELEVENTH CIRCUIT

Position of Sentence Relative to Guideline Range	FY2001	FY2002	FY2003	FY2004 (Pre-Blakely)	FY2005-06 (Booker)
Within Range	72.1%	70.2%	74.5%	74.7%	69.6%
Upward Departures	0.6%	0.7%	0.8%	0.8%	0.4% ²
Otherwise Above Range	—	—	—	—	1.5% ³
Substantial Assistance Departures	19.9%	22.4%	19.9%	21.0%	17.3%
Other Gov't Sponsored Departures	—	—	0.3% ⁴	0.2%	0.9% ⁴
Other Downward Departures	7.5% ⁵	6.7% ⁵	4.5%	3.3%	2.6% ²
Otherwise Below Range	—	—	—	—	7.8% ³

¹In 2003, the Commission augmented its data coding procedures to determine the proportion of non-substantial assistance downward departures that were sponsored by the government. Data prior to 2003 does not distinguish non-substantial assistance government initiated downward departures from other downward departures. In this table, data from FY2001 and 2002 on "Other Downward Departures" combines both government sponsored and non-government sponsored downward departures. For FY2003 and FY2004, the "Other Downward Departures" data distinguishes departures that were sponsored by the government from those not sponsored by the government. For example, using the national data, 6.3% of downward departures were government sponsored and 7.5% were other downward departures; the combination of these values (13.8%) is directly comparable to the data for "Other Downward Departures" from the preceding years. For FY2004, this table reflects only cases sentenced prior to the *Blakely v Washington* decision on June 24, 2004. For FY2005, this table reflects cases sentenced subsequent to the *U.S. v Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by February 1, 2006. In these cases, a further distinction is made among below guideline range sentences. The data report three categories of below range sentences: those sponsored by the government; those not sponsored by the government and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*; and those mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range. Cases citing both reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and mentioning *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors are included in the "Other Downward Departures" category.

²Includes cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and all cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual*, and additionally mentioning either *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range.

³Includes cases with imposed sentences outside of the guideline range mentioning only *U.S. v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for a sentence outside of the guideline range and all cases with imposed sentences outside of the guideline range that do not fall into the previous category. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal *Guidelines Manual* and cases which do not provide any reason for the sentence outside of the guideline range.

⁴Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant. Note that §5K3.1 (Early Disposition Program) cases are included in this category.

⁵Includes cases in which the below range sentence was sponsored by the government and those not sponsored by the government. Prior to FY2003, the Commission did not code this distinction.

SOURCE: U.S. Sentencing Commission *Sourcebook of Federal Sentencing*, FY2001 through FY2003, Table 26; U.S. Sentencing Commission 2004 Fiscal Year Data File, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project, (data extracted February 1, 2006; table prepared February 14, 2006). Percents may not sum to 100 percent due to rounding.

Distribution of Offenders Receiving Sentencing Options for the Most Frequently Applied Guidelines
FY 2000-2003, Pre-Blakely FY 2004, and Post-Booker FY 2005-2006 (data extracted February 1, 2006)

	FY 2000		FY 2001		FY 2002		FY 2003		Pre-Blakely FY 2004		Post-Booker FY2005-06	
	N	%	N	%	N	%	N	%	N	%	N	%
Drug Trafficking §2D1.1¹	21,715	100.0	22,608	100.0	24,013	100.0	23,833	100.0	16,955	100.0	21,863	100.0
Prison only ²	20,422	94.0	21,143	93.5	22,407	93.3	22,455	94.2	16,081	94.9	20,667	94.5
Prison plus confinement conditions ³	430	2.0	469	2.1	515	2.1	402	1.7	337	2.0	465	2.1
Probation plus confinement conditions ⁴	379	1.7	488	2.2	465	1.9	469	2.0	227	1.3	313	1.4
Probation only ⁵	484	2.2	508	2.2	626	2.6	507	2.1	310	1.8	418	1.9
Immigration Unlawful Entry §2L1.2¹	6,341	100.0	5,946	100.0	6,993	100.0	9,167	100.0	7,058	100.0	10,023	100.0
Prison only ²	6,291	99.2	5,901	99.2	6,952	99.4	9,132	99.6	7,032	99.6	9,951	99.3
Prison plus confinement conditions ³	10	0.2	14	0.2	7	0.1	11	0.1	10	0.1	19	0.2
Probation plus confinement conditions ⁴	1	0.0	1	0.0	0	0.0	2	0.0	0	0.0	2	0.0
Probation only ⁵	39	0.6	30	0.5	34	0.5	22	0.2	16	0.2	51	0.5
Firearms §2K2.1¹	2,997	100.0	3,629	100.0	4,173	100.0	5,425	100.0	4,782	100.0	6,105	100.0
Prison only ²	2,604	86.9	3,177	87.5	3,680	88.2	4,779	88.1	4,292	89.8	5,483	89.8
Prison plus confinement conditions ³	104	3.5	141	3.9	158	3.8	174	3.2	128	2.7	180	2.9
Probation plus confinement conditions ⁴	147	4.9	155	4.3	139	3.3	224	4.1	160	3.4	222	3.6
Probation only ⁵	142	4.7	156	4.3	196	4.7	248	4.6	202	4.2	220	3.6
Theft/Fraud §2B1.1 or §2F1.1¹	9,015	100.0	8,768	100.0	9,243	100.0	9,606	100.0	6,909	100.0	7,533	100.0
Prison only ²	4,253	47.2	4,339	49.5	4,531	49.0	4,803	50.0	3,574	51.7	4,054	53.8
Prison plus confinement conditions ³	1,077	11.9	1,053	12.0	959	10.4	840	8.7	629	9.1	675	9.0
Probation plus confinement conditions ⁴	1,540	17.1	1,481	16.9	1,421	15.4	1,463	15.2	997	14.4	981	13.0
Probation only ⁵	2,145	23.8	1,895	21.6	2,332	25.2	2,500	26.0	1,709	24.7	1,823	24.2

¹Sections report only cases with one single guideline application using the indicated guideline. Cases receiving only monetary sentences are excluded.

²Prison only cases receive straight prison time.

³Prison plus confinement cases receive a combination of prison time and alternative confinement time as defined in USSG §5C1.1.

⁴Probation plus confinement cases receive, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁵Probation only cases receive straight probation time.

SOURCE: U.S. Sentencing Commission, 2000-2003 Fiscal Year Datafiles, USSCFY00-USSCFY03; 2004 Fiscal Year Datafile, USSCFY04, Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project (data extraction on February 1, 2006; table prepared February 14, 2006). Numbers may not sum to 100 percent due to rounding.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Fiscal Year 2000 and Fiscal Year 2001

	Fiscal Year 2000				Fiscal Year 2001			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	50	30		51,342	50	30		51,809
Drug Trafficking §2D1.1⁴	72	50	60	21,715	70	48	60	22,608
Prison only ⁵	74	57	63	20,422	72	51	60	21,143
Prison plus confinement conditions ⁶	21	10	21	430	29	10	18	469
Probation plus confinement conditions ⁷	6	6	12	379	6	6	12	488
Probation only ⁸	0	0	—	484	0	0	—	508
Immigration Unlawful Entry §2L1.2⁴	36	33	46	6,341	35	30	46	5,946
Prison only ⁵	36	33	33	6,291	35	30	46	5,901
Prison plus confinement conditions ⁶	21	10	10	10	20	10	12	14
Probation plus confinement conditions ⁷	—	—	—	1	—	—	—	1
Probation only ⁸	0	0	—	39	0	0	—	30
Firearms §2K2.1⁴	53	37	37	2,997	52	37	37	3,629
Prison only ⁵	57	37	41	2,604	56	40	41	3,177
Prison plus confinement conditions ⁶	23	10	12	104	22	10	15	141
Probation plus confinement conditions ⁷	7	6	12	147	6	6	12	155
Probation only ⁸	0	0	—	142	0	0	—	156
Theft/Fraud §2B1.1 or §2F1.1⁴	14	10	10	9,015	15	10	12	8,768
Prison only ⁵	19	15	15	4,253	20	15	15	4,339
Prison plus confinement conditions ⁶	9	8	8	1,077	9	8	8	1,053
Probation plus confinement conditions ⁷	5	6	6	1,540	5	6	6	1,481
Probation only ⁸	0	0	—	2,145	0	0	—	1,895

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Fiscal Year 2002 and Fiscal Year 2003

	Fiscal Year 2002				Fiscal Year 2003			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	51	30		55,856	52	30		60,786
Drug Trafficking §2D1.1⁴	71	51	60	24,013	77	57	63	23,833
Prison only ⁵	74	57	57	22,407	79	60	70	22,455
Prison plus confinement conditions ⁶	22	10	10	515	20	10	15	402
Probation plus confinement conditions ⁷	6	6	6	465	6	6	12	469
Probation only ⁸	0	0	—	626	0	0	—	507
Immigration Unlawful Entry §2L1.2⁴	30	27	30	6,993	28	24	27	9,167
Prison only ⁵	30	27	30	6,952	28	24	27	9,132
Prison plus confinement conditions ⁶	20	10	10	7	22	10	10	11
Probation plus confinement conditions ⁷	—	—	—	0	—	—	—	2
Probation only ⁸	0	0	—	34	0	0	—	22
Firearms §2K2.1⁴	53	37	37	4,173	56	37	37	5,425
Prison only ⁵	57	37	37	3,680	59	41	41	4,779
Prison plus confinement conditions ⁶	18	10	12	158	21	10	12	174
Probation plus confinement conditions ⁷	6	6	12	139	6	6	12	224
Probation only ⁸	0	0	—	196	0	0	—	248
Theft/Fraud §2B1.1 or §2F1.1⁴	16	10	12	9,243	16	12	12	9,606
Prison only ⁵	20	15	15	4,531	21	16	18	4,803
Prison plus confinement conditions ⁶	9	10	10	959	9	10	10	840
Probation plus confinement conditions ⁷	6	6	6	1,421	6	6	6	1,463
Probation only ⁸	0	0	—	2,332	0	0	—	2,500

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2002 and 2003 Fiscal Year Datafiles, USSCFY02 and USSCFY03.

Average and Median Sentence Imposed¹ for the Most Frequently Applied Guidelines

Pre-Blakely FY 2004 and Post-Booker FY 2005-2006 (data extracted February 1, 2006)

	Pre-Blakely FY 2004				Post-Booker FY2005-06			
	Average Months	Median Months	GL Median ²	N	Average Months	Median Months	GL Median ²	N
All Cases (one guideline computation)³	56	33		44,895	55	33		58,749
Drug Trafficking §2D1.1⁴	83	60	70	16,955	83	60	70	21,863
Prison only ⁵	86	60	70	16,081	86	63	78	20,667
Prison plus confinement conditions ⁶	22	10	12	337	19	10	21	465
Probation plus confinement conditions ⁷	6	6	12	227	6	6	15	313
Probation only ⁸	0	0	—	310	0	0	—	418
Immigration Unlawful Entry §2L1.2⁴	29	24	24	7,058	27	24	24	10,023
Prison only ⁵	29	24	24	7,032	27	24	24	9,951
Prison plus confinement conditions ⁶	40	34	29	10	15	10	15	19
Probation plus confinement conditions ⁷	—	—	—	0	—	—	—	2
Probation only ⁸	0	0	—	16	0	0	—	51
Firearms §2K2.1⁴	59	40	41	4,782	58	37	37	6,105
Prison only ⁵	63	42	46	4,292	61	41	41	5,483
Prison plus confinement conditions ⁶	21	10	10	128	27	10	12	180
Probation plus confinement conditions ⁷	6	6	10	160	7	6	12	222
Probation only ⁸	0	0	—	202	0	0	—	220
Theft/Fraud §2B1.1 or §2F1.1⁴	19	12	12	6,909	20	12	15	7,533
Prison only ⁵	25	18	18	3,574	26	18	21	4,054
Prison plus confinement conditions ⁶	9	10	10	629	10	10	10	675
Probation plus confinement conditions ⁷	6	6	6	997	6	6	6	981
Probation only ⁸	0	0	—	1,709	0	0	—	1,823

¹Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

²For the guideline range of the sentencing table applied to the case, the lower value of the sentencing range.

³All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The “All Cases” row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

⁴Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

⁵Prison only sentence categories report straight prison time.

⁶Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

⁷Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

⁸Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2004 Fiscal Year Datafile, USSCFY04 Pre-Blakely Only Cases (October 1, 2003 through June 24, 2004); Special Post-Booker Coding Project (data extraction on February 1, 2006; table prepared February 14, 2006).

POST-BOOKER DEPARTURE/VARIANCE RATE BY CIRCUIT AND DISTRICT¹
Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

CIRCUIT District	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
		%	%	%	%	%	%	%	%	%	%	%	%
TOTAL	63,631	39,383	61.9	15,289	24.0	2,048	3.2	5,903	9.3	167	0.3	841	1.3
D.C. CIRCUIT	472	247	52.3	154	32.6	13	2.8	48	10.2	1	0.2	9	1.9
District of Columbia	472	247	52.3	154	32.6	13	2.8	48	10.2	1	0.2	9	1.9
FIRST CIRCUIT	1,449	945	65.2	210	14.5	58	4.0	200	13.8	5	0.3	31	2.1
Maine	232	167	72.0	52	22.4	5	2.2	7	3.0	0	0.0	1	0.4
Massachusetts	434	231	53.2	52	12.0	35	8.1	109	25.1	2	0.5	5	1.2
New Hampshire	177	97	54.8	58	32.8	7	4.0	10	5.6	0	0.0	5	2.8
Puerto Rico	480	365	76.0	41	8.5	8	1.7	48	10.0	2	0.4	16	3.3
Rhode Island	126	85	67.5	7	5.6	3	2.4	26	20.6	1	0.8	4	3.2
SECOND CIRCUIT	3,768	1,869	49.6	989	26.2	253	6.7	617	16.4	5	0.1	35	0.9
Connecticut	357	163	45.7	96	26.9	50	14.0	44	12.3	2	0.6	2	0.6
New York													
Eastern	1,130	407	36.0	340	30.1	106	9.4	255	22.6	2	0.2	20	1.8
Northern	371	202	54.4	115	31.0	20	5.4	31	8.4	0	0.0	3	0.8
Southern	1,157	694	60.0	178	15.4	59	5.1	219	18.9	1	0.1	6	0.5
Western	558	309	55.4	191	34.2	4	0.7	51	9.1	0	0.0	3	0.5
Vermont	195	94	48.2	69	35.4	14	7.2	17	8.7	0	0.0	1	0.5
THIRD CIRCUIT	3,052	1,583	51.9	891	29.2	125	4.1	411	13.5	7	0.2	35	1.1
Delaware	156	103	66.0	12	7.7	12	7.7	29	18.6	0	0.0	0	0.0
New Jersey	900	461	51.2	287	31.9	41	4.6	101	11.2	1	0.1	9	1.0
Pennsylvania													
Eastern	896	364	40.6	315	35.2	31	3.5	172	19.2	3	0.3	11	1.2
Middle	579	274	47.3	220	38.0	19	3.3	54	9.3	3	0.5	9	1.6
Western	412	286	69.4	52	12.6	21	5.1	47	11.4	0	0.0	6	1.5
Virgin Islands	109	95	87.2	5	4.6	1	0.9	8	7.3	0	0.0	0	0.0
FOURTH CIRCUIT	5,679	3,796	66.8	1,102	19.4	141	2.5	547	9.6	17	0.3	76	1.3
Maryland	619	305	49.3	189	30.5	31	5.0	83	13.4	2	0.3	9	1.5
North Carolina													
Eastern	621	341	54.9	223	35.9	12	1.9	39	6.3	2	0.3	4	0.6
Middle	426	320	75.1	55	12.9	8	1.9	39	9.2	0	0.0	4	0.9
Western	549	332	60.5	157	28.6	14	2.6	40	7.3	0	0.0	6	1.1
South Carolina	952	674	70.8	163	17.1	25	2.6	79	8.3	4	0.4	7	0.7
Virginia													
Eastern	1,303	980	75.2	94	7.2	24	1.8	170	13.0	5	0.4	30	2.3
Western	622	385	61.9	157	25.2	12	1.9	57	9.2	2	0.3	9	1.4
West Virginia													
Northern	302	243	80.5	30	9.9	6	2.0	20	6.6	0	0.0	3	1.0
Southern	285	216	75.8	34	11.9	9	3.2	20	7.0	2	0.7	4	1.4

CIRCUIT	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
		%		%		%		%		%		%	
District													
FIFTH CIRCUIT	14,357	10,285	71.6	2,588	18.0	356	2.5	881	6.1	31	0.2	216	1.5
Louisiana													
Eastern	305	233	76.4	45	14.8	4	1.3	16	5.2	2	0.7	5	1.6
Middle	176	109	61.9	46	26.1	1	0.6	8	4.5	2	1.1	10	5.7
Western	375	269	71.7	33	8.8	8	2.1	45	12.0	1	0.3	19	5.1
Mississippi													
Northern	187	113	60.4	56	29.9	2	1.1	6	3.2	2	1.1	8	4.3
Southern	326	263	80.7	32	9.8	7	2.1	16	4.9	0	0.0	8	2.5
Texas													
Eastern	717	571	79.6	84	11.7	16	2.2	34	4.7	1	0.1	11	1.5
Northern	928	693	74.7	107	11.5	13	1.4	65	7.0	2	0.2	48	5.2
Southern	6,352	4,106	64.6	1,575	24.8	218	3.4	397	6.3	16	0.3	40	0.6
Western	4,991	3,928	78.7	610	12.2	87	1.7	294	5.9	5	0.1	67	1.3
SIXTH CIRCUIT	4,902	2,830	57.7	1,318	26.9	146	3.0	535	10.9	8	0.2	65	1.3
Kentucky													
Eastern	492	246	50.0	199	40.4	4	0.8	29	5.9	0	0.0	14	2.8
Western	346	244	70.5	74	21.4	8	2.3	20	5.8	0	0.0	0	0.0
Michigan													
Eastern	687	366	53.3	199	29.0	28	4.1	85	12.4	1	0.1	8	1.2
Western	393	257	65.4	64	16.3	14	3.6	49	12.5	2	0.5	7	1.8
Ohio													
Northern	979	568	58.0	237	24.2	44	4.5	121	12.4	1	0.1	8	0.8
Southern	573	276	48.2	186	32.5	20	3.5	82	14.3	0	0.0	9	1.6
Tennessee													
Eastern	584	375	64.2	148	25.3	4	0.7	48	8.2	0	0.0	9	1.5
Middle	285	174	61.1	61	21.4	11	3.9	36	12.6	1	0.4	2	0.7
Western	563	324	57.5	150	26.6	13	2.3	65	11.5	3	0.5	8	1.4
SEVENTH CIRCUIT	2,847	1,802	63.3	568	20.0	102	3.6	336	11.8	9	0.3	30	1.1
Illinois													
Central	364	213	58.5	78	21.4	12	3.3	57	15.7	1	0.3	3	0.8
Northern	1,018	585	57.5	246	24.2	49	4.8	129	12.7	2	0.2	7	0.7
Southern	278	232	83.5	15	5.4	9	3.2	17	6.1	2	0.7	3	1.1
Indiana													
Northern	342	232	67.8	86	25.1	9	2.6	13	3.8	0	0.0	2	0.6
Southern	293	188	64.2	69	23.5	7	2.4	21	7.2	2	0.7	6	2.0
Wisconsin													
Eastern	372	198	53.2	66	17.7	13	3.5	86	23.1	2	0.5	7	1.9
Western	180	154	85.6	8	4.4	3	1.7	13	7.2	0	0.0	2	1.1
EIGHTH CIRCUIT	4,809	3,099	64.4	868	18.0	170	3.5	581	12.1	15	0.3	76	1.6
Arkansas													
Eastern	243	162	66.7	32	13.2	9	3.7	36	14.8	2	0.8	2	0.8
Western	192	137	71.4	39	20.3	3	1.6	12	6.3	0	0.0	1	0.5
Iowa													
Northern	350	241	68.9	50	14.3	6	1.7	35	10.0	3	0.9	15	4.3
Southern	321	157	48.9	66	20.6	9	2.8	83	25.9	0	0.0	6	1.9
Minnesota	531	275	51.8	102	19.2	30	5.6	121	22.8	0	0.0	3	0.6
Missouri													
Eastern	944	632	66.9	181	19.2	39	4.1	81	8.6	1	0.1	10	1.1
Western	766	505	65.9	145	18.9	8	1.0	93	12.1	0	0.0	15	2.0
Nebraska	834	539	64.6	177	21.2	47	5.6	64	7.7	0	0.0	7	0.8
North Dakota	211	144	68.2	49	23.2	5	2.4	11	5.2	1	0.5	1	0.5
South Dakota	417	307	73.6	27	6.5	14	3.4	45	10.8	8	1.9	16	3.8

CIRCUIT	TOTAL	SENTENCED WITHIN GUIDELINE RANGE		GOVERNMENT SPONSORED BELOW THE GUIDELINE RANGE		DEPARTURES BELOW THE GUIDELINE RANGE		OTHERWISE BELOW THE GUIDELINE RANGE		DEPARTURES ABOVE THE GUIDELINE RANGE		OTHERWISE ABOVE THE GUIDELINE RANGE	
		%		%		%		%		%		%	
District													
NINTH CIRCUIT	11,226	5,392	48.0	4,335	38.6	383	3.4	943	8.4	42	0.4	131	1.2
Alaska	192	113	58.9	32	16.7	2	1.0	41	21.4	0	0.0	4	2.1
Arizona	3,746	1,066	28.5	2,356	62.9	105	2.8	142	3.8	31	0.8	46	1.2
California													
Central	739	625	84.6	36	4.9	21	2.8	56	7.6	0	0.0	1	0.1
Eastern	855	458	53.6	304	35.6	23	2.7	63	7.4	1	0.1	6	0.7
Northern	599	366	61.1	118	19.7	23	3.8	82	13.7	0	0.0	10	1.7
Southern	2,027	1,106	54.6	678	33.4	105	5.2	126	6.2	3	0.1	9	0.4
Guam	117	62	53.0	42	35.9	4	3.4	9	7.7	0	0.0	0	0.0
Hawaii	440	211	48.0	137	31.1	17	3.9	68	15.5	0	0.0	7	1.6
Idaho	212	83	39.2	94	44.3	9	4.2	24	11.3	0	0.0	2	0.9
Montana	378	286	75.7	47	12.4	10	2.6	18	4.8	4	1.1	13	3.4
Nevada	398	285	71.6	49	12.3	9	2.3	46	11.6	0	0.0	9	2.3
Northern Mariana Islands	23	17	73.9	5	21.7	0	0.0	0	0.0	0	0.0	1	4.3
Oregon	474	255	53.8	108	22.8	20	4.2	83	17.5	1	0.2	7	1.5
Washington													
Eastern	351	206	58.7	71	20.2	10	2.8	53	15.1	2	0.6	9	2.6
Western	675	253	37.5	258	38.2	25	3.7	132	19.6	0	0.0	7	1.0
TENTH CIRCUIT	5,197	3,450	66.4	1,195	23.0	150	2.9	348	6.7	6	0.1	48	0.9
Colorado	589	310	52.6	176	29.9	32	5.4	63	10.7	2	0.3	6	1.0
Kansas	607	403	66.4	118	19.4	14	2.3	62	10.2	2	0.3	8	1.3
New Mexico	2,389	1,555	65.1	698	29.2	48	2.0	79	3.3	1	0.0	8	0.3
Oklahoma													
Eastern	92	81	88.0	9	9.8	1	1.1	1	1.1	0	0.0	0	0.0
Northern	198	162	81.8	23	11.6	0	0.0	8	4.0	1	0.5	4	2.0
Western	221	159	71.9	19	8.6	6	2.7	25	11.3	0	0.0	12	5.4
Utah	907	658	72.5	101	11.1	44	4.9	97	10.7	0	0.0	7	0.8
Wyoming	194	122	62.9	51	26.3	5	2.6	13	6.7	0	0.0	3	1.5
ELEVENTH CIRCUIT	5,873	4,085	69.6	1,071	18.2	151	2.6	456	7.8	21	0.4	89	1.5
Alabama													
Middle	209	127	60.8	72	34.4	2	1.0	6	2.9	1	0.5	1	0.5
Northern	422	262	62.1	106	25.1	5	1.2	36	8.5	2	0.5	11	2.6
Southern	294	191	65.0	71	24.1	7	2.4	20	6.8	0	0.0	5	1.7
Florida													
Middle	1,503	974	64.8	354	23.6	46	3.1	107	7.1	2	0.1	20	1.3
Northern	309	219	70.9	60	19.4	4	1.3	16	5.2	3	1.0	7	2.3
Southern	1,872	1,451	77.5	193	10.3	41	2.2	168	9.0	5	0.3	14	0.7
Georgia													
Middle	358	253	70.7	75	20.9	0	0.0	21	5.9	1	0.3	8	2.2
Northern	626	414	66.1	102	16.3	32	5.1	68	10.9	3	0.5	7	1.1
Southern	280	194	69.3	38	13.6	14	5.0	14	5.0	4	1.4	16	5.7

¹Of the 65,766 cases, 107 cases with no analogous guidelines were excluded from the table. Of the remaining 65,659 cases, 2,135 were excluded due to missing departure or variance information.

Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted February 1, 2006; table prepared February 14, 2006). Summary numbers may not add up to their component parts due to rounding

**SUBSTANTIAL ASSISTANCE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR SUBSTANTIAL ASSISTANCE	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	8,854	36.0	28.0	49.9
Murder	9	144.0	210.0	62.4
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	4	114.5	115.5	47.1
Sexual Abuse	6	34.5	18.5	35.4
Assault	11	42.0	18.0	31.4
Robbery	161	51.0	32.0	36.2
Arson	10	35.0	22.5	49.0
Drugs - Trafficking	5,660	50.0	39.0	45.8
Drugs - Communication Facility	61	2.9	16.0	87.5
Drugs - Simple Possession	10	25.3	10.0	40.7
Firearms	763	36.0	24.0	47.4
Burglary/B&E	1	--	--	--
Auto Theft	11	14.0	18.0	50.4
Larceny	116	5.0	10.0	66.7
Fraud	884	3.0	12.0	88.9
Embezzlement	15	0.0	12.0	100.0
Forgery/Counterfeiting	78	1.0	10.0	92.5
Bribery	50	5.0	15.5	83.5
Tax	81	0.0	10.0	100.0
Money Laundering	210	12.0	21.5	63.0
Racketeering/Extortion	152	30.0	30.0	50.7
Gambling/Lottery	16	0.0	8.0	100.0
Civil Rights	8	14.0	11.5	40.4
Immigration	283	8.0	9.0	50.0
Pornography/Prostitution	45	44.0	21.0	33.3
Prison Offenses	9	2.0	6.0	66.7
Administration of Justice Offenses	118	0.0	12.0	100.0
Environmental/Wildlife	13	0.0	10.0	100.0
National Defense	6	8.5	18.0	80.9
Antitrust	10	5.0	10.0	66.7
Food & Drug	6	0.0	12.0	99.9
Other Miscellaneous Offenses	47	3.0	14.0	83.3

¹Of the 65,766 cases, 9,245 received a substantial assistance departure. Of these, 8,911 had complete guideline application information. An additional 36 cases were excluded due to several logical criteria. Of the remaining 8,875 cases, 21 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (21).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted February 1, 2006; table prepared February 14, 2006). Summary numbers may not add up to their component parts due to rounding.

**GOVERNMENT SPONSORED DOWNWARD DEPARTURE CASES: DEGREE OF
DEPARTURE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR GOVERNMENT SPONSORED DOWNWARD DEPARTURE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	5,770	24.0	9.0	27.3
Murder	3	57.0	40.0	41.0
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	1	--	--	--
Sexual Abuse	25	60.0	21.9	35.8
Assault	31	19.9	12.0	40.5
Robbery	24	73.5	22.0	25.4
Arson	2	--	--	--
Drugs - Trafficking	1,449	24.0	10.0	33.3
Drugs - Communication Facility	10	11.6	29.4	71.7
Drugs - Simple Possession	0	--	--	--
Firearms	209	30.0	12.0	26.2
Burglary/B&E	1	--	--	--
Auto Theft	1	--	--	--
Larceny	24	0.0	10.0	99.9
Fraud	104	6.5	10.0	60.0
Embezzlement	8	0.0	9.0	99.4
Forgery/Counterfeiting	18	6.4	10.0	54.3
Bribery	8	5.0	9.5	65.8
Tax	12	5.5	10.0	61.1
Money Laundering	30	14.0	7.5	50.3
Racketeering/Extortion	29	36.0	6.0	19.3
Gambling/Lottery	5	0.0	10.0	100.0
Civil Rights	0	--	--	--
Immigration	3,664	24.0	7.0	25.0
Pornography/Prostitution	29	41.0	16.0	21.7
Prison Offenses	8	10.5	5.5	31.9
Administration of Justice Offenses	34	10.0	9.6	47.5
Environmental/Wildlife	4	5.0	7.5	58.3
National Defense	4	24.0	22.0	56.6
Antitrust	1	--	--	--
Food & Drug	3	16.0	12.0	23.3
Other Miscellaneous Offenses	29	0.0	12.0	100.0

¹Of the 65,766 cases, 6,044 received a government sponsored downward departure. Of these, 5,824 had complete guideline application information. An additional 42 cases were excluded due to several logical criteria. Of the remaining 5,782 cases, 12 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (12).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHER DOWNWARD DEPARTURE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR OTHER DOWNWARD DEPARTURE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	1,926	24.0	12.0	34.3
Murder	3	70.0	27.0	27.8
Manslaughter	4	24.0	11.0	26.8
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	9	18.0	9.0	19.6
Assault	30	12.0	11.0	50.0
Robbery	62	54.5	19.0	25.4
Arson	1	--	--	--
Drugs - Trafficking	639	60.0	17.0	27.3
Drugs - Communication Facility	9	12.0	18.0	50.0
Drugs - Simple Possession	3	12.0	22.0	67.5
Firearms	267	24.0	11.0	34.5
Burglary/B&E	1	--	--	--
Auto Theft	1	--	--	--
Larceny	44	0.0	7.0	100.0
Fraud	189	1.0	10.0	93.9
Embezzlement	16	2.5	9.0	84.2
Forgery/Counterfeiting	22	1.5	10.0	92.9
Bribery	4	0.0	7.0	100.0
Tax	36	0.0	10.0	100.0
Money Laundering	26	15.5	10.5	46.4
Racketeering/Extortion	18	24.0	12.0	34.6
Gambling/Lottery	2	--	--	--
Civil Rights	2	--	--	--
Immigration	405	24.0	9.0	26.8
Pornography/Prostitution	52	18.0	21.5	44.9
Prison Offenses	8	21.0	5.0	22.4
Administration of Justice Offenses	44	0.1	10.0	99.4
Environmental/Wildlife	2	--	--	--
National Defense	2	--	--	--
Antitrust	1	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	24	0.5	10.0	98.2

¹Of the 65,766 cases, 2,048 received an other downward departure. Of these, 1,930 had complete guideline application information. An additional one cases were excluded due to several logical criteria. Of the remaining 1,929 cases, three were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (3).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHERWISE BELOW GUIDELINE RANGE CASES: DEGREE OF VARIANCE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF DECREASE FOR OTHERWISE BELOW GUIDELINE RANGE ³	
			Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
TOTAL	5,482	27.0	12.0	33.3
Murder	9	97.0	24.5	20.2
Manslaughter	3	20.0	10.0	33.3
Kidnapping/Hostage Taking	2	--	--	--
Sexual Abuse	28	39.0	18.0	33.3
Assault	44	12.0	9.0	44.4
Robbery	124	51.5	14.5	20.5
Arson	2	--	--	--
Drugs - Trafficking	2,006	60.0	19.0	27.0
Drugs - Communication Facility	49	14.0	12.0	35.1
Drugs - Simple Possession	13	5.8	6.2	59.5
Firearms	783	30.0	12.0	28.6
Burglary/B&E	7	6.0	6.0	52.4
Auto Theft	6	30.0	7.0	28.2
Larceny	126	0.0	6.0	100.0
Fraud	622	5.0	10.0	67.5
Embezzlement	57	0.0	8.0	99.6
Forgery/Counterfeiting	84	1.4	8.0	88.1
Bribery	22	0.0	12.0	100.0
Tax	115	1.0	10.0	90.0
Money Laundering	123	15.0	12.0	51.4
Racketeering/Extortion	51	41.0	18.0	39.6
Gambling/Lottery	8	0.0	6.0	100.0
Civil Rights	7	28.0	14.5	33.7
Immigration	830	19.8	9.0	33.2
Pornography/Prostitution	155	30.0	17.0	35.1
Prison Offenses	21	12.0	7.0	41.5
Administration of Justice Offenses	91	6.0	10.0	70.7
Environmental/Wildlife	16	0.0	6.0	100.0
National Defense	3	24.0	22.0	51.4
Antitrust	0	--	--	--
Food & Drug	3	5.0	7.0	58.3
Other Miscellaneous Offenses	72	0.0	10.0	100.0

¹Of the 65,766 cases, 5,903 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 5,503 had complete guideline application information. An additional eight cases were excluded due to several logical criteria. Of the remaining 5,495 cases, 13 were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (13).

²Cases with guideline minimums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**UPWARD DEPARTURE CASES: DEGREE OF DEPARTURE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

PRIMARY OFFENSE	n	Median Sentence in Months ²	DEGREE OF INCREASE FOR UPWARD DEPARTURE ³	
			Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	160	60.0	12.5	33.3
Murder	3	228.0	105.0	77.8
Manslaughter	4	96.0	18.0	23.1
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	4	145.5	58.5	56.5
Assault	6	61.5	10.5	80.3
Robbery	3	150.0	35.0	31.4
Arson	0	--	--	--
Drugs - Trafficking	20	42.0	7.5	21.1
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	1	--	--	--
Firearms	29	78.0	21.0	25.0
Burglary/B&E	1	--	--	--
Auto Theft	0	--	--	--
Larceny	2	--	--	--
Fraud	23	48.0	14.0	47.4
Embezzlement	0	--	--	--
Forgery/Counterfeiting	4	48.0	22.0	120.8
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	1	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	41	18.0	6.0	26.3
Pornography/Prostitution	11	180.0	63.0	58.7
Prison Offenses	1	--	--	--
Administration of Justice Offenses	4	24.0	6.0	50.0
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	2	--	--	--

¹Of the 65,766 cases, 167 received an upward departure. Of these, 162 had complete guideline application information. An additional one cases were excluded due to several logical criteria. Of the remaining 161 cases, one were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (1).

²Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.

**OTHERWISE ABOVE GUIDELINE RANGE CASES: DEGREE OF VARIANCE
FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY¹**

Cases Sentenced Subsequent to U.S. v. Booker with Data Available to USSC on February 1, 2006

PRIMARY OFFENSE	n	DEGREE OF INCREASE FOR OTHERWISE ABOVE GUIDELINE RANGE ³		
		Median Sentence in Months ²	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
TOTAL	748	60.0	14.0	37.9
Murder	6	234.0	56.0	32.1
Manslaughter	4	56.5	14.5	32.7
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	19	188.0	38.0	42.9
Assault	26	60.0	25.5	42.3
Robbery	18	174.0	33.5	31.0
Arson	3	84.0	13.0	50.0
Drugs - Trafficking	107	80.0	20.0	33.3
Drugs - Communication Facility	4	29.1	2.1	21.0
Drugs - Simple Possession	13	12.0	6.0	100.0
Firearms	129	78.0	17.0	31.4
Burglary/B&E	0	--	--	--
Auto Theft	4	78.0	37.5	95.2
Larceny	34	30.0	10.0	71.4
Fraud	125	45.0	9.0	33.3
Embezzlement	3	36.0	12.0	46.3
Forgery/Counterfeiting	13	60.0	15.0	73.2
Bribery	0	--	--	--
Tax	6	36.0	9.0	38.1
Money Laundering	11	108.0	15.9	37.9
Racketeering/Extortion	14	78.0	18.0	27.4
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	136	36.0	9.0	40.0
Pornography/Prostitution	38	120.0	33.0	40.6
Prison Offenses	7	40.0	7.0	21.2
Administration of Justice Offenses	15	30.0	10.0	50.0
Environmental/Wildlife	1	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	12	24.0	9.5	50.0

¹Of the 65,766 cases, 841 were otherwise below the guideline range and did not cite reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual. Of these, 773 had complete guideline application information. An additional 25 cases were excluded due to several logical criteria. Of the remaining 748 cases, zero were excluded due to one or both of the following reasons: missing primary offense category (0) or missing sentence information (0).

²Cases with guideline maximums of life or probation (i.e., sentence lengths of zero months) were included in the sentence average computations as 470 months and zero months respectively, but were excluded from measures of decrease in the table.